

ASSEMBLY BILL

No. 1664

Introduced by Assembly Member Buchanan

February 14, 2012

An act to amend Section 23152 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1664, as introduced, Buchanan. Vehicles: driving under the influence.

Existing law prohibits any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, from driving a vehicle or for any person who has 0.08% or more, by weight, of alcohol in his or her blood from driving a vehicle.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 23152 of the Vehicle Code, as amended
- 2 by Section 31 of Chapter 455 of the Statutes of 1995, is amended
- 3 to read:
- 4 23152. (a) It is unlawful for ~~any~~ a person who is under the
- 5 influence of any alcoholic beverage or drug, or under the combined
- 6 influence of any alcoholic beverage and drug, to drive a vehicle.

(b) It is unlawful for ~~any~~ a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

~~For~~

(1) For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

~~In~~

(2) In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(c) It is unlawful for ~~any~~ a person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(d) (1) It is unlawful for ~~any~~ a person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210.

~~In~~

(2) In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

(e) This section shall become operative on January 1, 1992, and shall remain operative until the director determines that federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in Section 383.51 or 391.15 of Title 49 of the Code of Federal Regulations do not require the state to prohibit operation of commercial vehicles when the operator has a concentration of alcohol in his or her blood of 0.04 percent by weight or more.

1 (f) The director shall submit a notice of the determination under
2 subdivision (e) to the Secretary of State, and this section shall be
3 repealed upon the receipt of that notice by the Secretary of State.

4 SEC. 2. Section 23152 of the Vehicle Code, as amended by
5 Section 32 of Chapter 455 of the Statutes of 1995, is amended to
6 read:

7 23152. (a) It is unlawful for~~any~~ a person who is under the
8 influence of any alcoholic beverage or drug, or under the combined
9 influence of any alcoholic beverage and drug, to drive a vehicle.

10 (b) It is unlawful for~~any~~ a person who has 0.08 percent or more,
11 by weight, of alcohol in his or her blood to drive a vehicle.

12 ~~For~~
13 (1) For purposes of this article and Section 34501.16, percent,
14 by weight, of alcohol in a person's blood is based upon grams of
15 alcohol per 100 milliliters of blood or grams of alcohol per 210
16 liters of breath.

17 ~~In~~
18 (2) In any prosecution under this subdivision, it is a rebuttable
19 presumption that the person had 0.08 percent or more, by weight,
20 of alcohol in his or her blood at the time of driving the vehicle if
21 the person had 0.08 percent or more, by weight, of alcohol in his
22 or her blood at the time of the performance of a chemical test
23 within three hours after the driving.

24 (c) It is unlawful for~~any~~ a person who is addicted to the use of
25 any drug to drive a vehicle. This subdivision shall not apply to a
26 person who is participating in a narcotic treatment program
27 approved pursuant to Article 3 (commencing with Section 11875)
28 of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety
29 Code.

30 (d) This section shall become operative only upon the receipt
31 by the Secretary of State of the notice specified in subdivision (f)
32 of Section 23152, as added by Section 25 of Chapter 1114 of the
33 Statutes of 1989.